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HUMAN RIGHTS COMMITTEE

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT

Third periodic report of States parties due in 1990

URUGUAY*

[26 March 1991]

PART I

GENERAL

1. In accordance with the provisions of article 40 of the International Covenant on Civil and Political Rights, Uruguay hereby submits its third report to the Human Rights Committee.

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* For the initial report submitted by the Government of Uruguay, see document CCPR/C/1/Add.57; for its consideration by the Committee, see documents CCPR/C/SR.355-SR.357, SR.359 and SR.373 and the Official Records of the General Assembly, Thirty-seventh Session, Supplement No. 40 (A/37/40, paras. 265-297). For the second periodic report submitted by the Government of Uruguay, see document CCPR/C/28/Add.10; for its consideration by the Committee, see documents CCPR/C/SR.876-SR.879 and the Official Records of the General Assembly, Forty-fourth Session, Supplement No. 40 (A/44/40, paras. 271-311).

2. Although the time that has elapsed since the submission of its second report has been very short, (the Committee itself requiring longer intervals between reports), the Government of Uruguay has decided to bring to the Committee's attention a considerable amount of information which, we feel sure, will confirm the value of the dialogue which should always exist between Governments and the body which is entrusted - within the framework of the United Nations - with the task of advising Governments in the fulfilment of one of the most essential tasks of a modern State, namely, to guarantee complete respect for human rights by formulating practical and effective measures for that purpose.

3. With a view to maintaining that free flow of dialogue, the Government of Uruguay, which was elected by popular suffrage in November 1989 and took office on 10 March 1990, wishes to bring to the Committee's attention the measures taken to give practical effect to the recommendations made by the Committee in response to its second report, as well as the legislation which, within the framework of the Covenant, has been enacted, amended and implemented in each particular case.

4. Among the measures which have followed from recommendations made by the Committee at previous sessions, particular attention should be drawn to the new Act concerning freedom of expression and freedom of information, repealing Decree-Law No. 15,672 of 9 November 1984, on which the Committee had expressed reservations at the time the second report was submitted.

5. Likewise, in order to comply with the Committee's suggestions with regard to racial discrimination, and with an earlier request by the Committee on the Elimination of Racial Discrimination, an Act has been passed during the period under consideration which, like Act No. 16,048 of 16 June 1989, penalizes acts of racial, ethnic or religious discrimination.

6. This Act brings legislation on the matter fully up to date, and forms part of an anti-discrimination policy which is to culminate in the passing of two other acts covering not only racial discrimination, but also discrimination against women and against disabled persons.

7. These texts protecting specific groups are especially innovative, and will be considered by Parliament when it comes to examine tneir wording.

8. Under this heading, the Government wishes to draw the Committee's attention to some interesting points that have emerged in evaluating the policy developed by Uruguay to ensure full respect for human rights.

9. In this connection, the Committee should note that this year has seen the entry into force of a new General Code of Procedure, which replaces the former Code of Civil Procedure and establishes general provisions concerning oral hearings in such matters, which has resulted in an immediate increase (virtually twofold) of the number of ordinary courts.

10. A reform of considerable importance in regard to penal procedure is now in the final stages of consideration by Parliament.

11. Where international instruments are concerned, in September 1989 the Uruguayan authorities convened a symposium on the implementation of international humanitarian law in Uruguay. At this symposium, a number of statements and reports were made by representatives of various sectors of national life, emphasizing the need to encourage implementation of the relevant instruments in domestic law. The symposium's first practical result was of particular importance: Uruguay recognized the competence of the International Fact-Finding Commission provided for under article 90 of Protocol I additional to the Geneva Conventions of 1949. The Declaration to that effect made by the Government of Uruguay on 2 May 1990 was doubly significant: on the one hand, it constituted the first recognition by a Latin American country of the competence of the International Fact-Finding Commission, and at the same time it constituted Declaration No. 19, under which - as agreed by the Contracting Parties - it became possible for the monitoring mechanism provided for under the Protocol to be put into effect.

12. In July 1990, our country organized the first national course on implementation of human rights instruments and the administration of justice. The course originated from a technical cooperation project agreed between the Centre for Human Rights in Geneva and the Government of Uruguay. The course was intended for officials of the Ministry of the Interior and members of the judiciary who are in direct contact with detainees. Lectures were given by experts from the Centre for Human Rights.

13. Efforts are thus being made to improve the qualifications of the officials concerned by training them in the most efficient and up-to-date approaches being used in the field.

14. Lastly, Uruguay has maintained close contacts with all international bodies concerned with the protection of human rights.

15. In addition to this, our third report, we have submitted an eighth report to the Committee on the Elimination of Racial Discrimination, and a first report to the Committee against Torture. In this way, the Government of Uruguay is demonstrating its willingness to meet its international obligations in full.

16. Uruguay has also expressed an opinion in the Inter-American Court of Human Rights on two recent occasions when the Court was asked for advisory opinions by the Government of Colombia and the Inter-American Commission on Human Rights. The first of these concerned the competence of the Court to interpret the American Declaration of the Rights and Duties of Man in the context of the provisions of article 64 of the Pact of San José, Costa Rica.

17. On that occasion, Uruguay stated clearly and categorically:

> "The legal nature of the Declaration is that of a binding multilateral instrument which enunciates, defines and spells out basic principles recognized by the American States, and lays down principles of common law generally accepted by those States."

18. This commitment to the vital and expanding body of so-called "international human rights law" has guided our country in implementing the texts recently in this connection.

19. In addition, efforts have been made at various levels in the education system to transmit these fundamental principles to students. By way of illustration, we have attached to this document a summary of a number of human rights projects which have been carried out at primary level, as well as a copy of the human rights curriculum which is soon to be introduced in the Faculty of Law of the University of the Republic. It should be noted that the Damaso Antonio Larrañaga Catholic University has already introduced similar courses as part of its law sutdies programme.

Article 1

20. Under this heading, stress should be laid on the consistent support given by our country to the process that culminated in the independence of Namibia on 21 March 1990.

21. This process constituted a reaffirmation of the major principles of international coexistence, namely, the right of peoples to self-determination, the unity and integrity of States, and full sovereignty in the exercise of their international personality.

22. Any celebration of the independence of a new State, irrespective of its geographical location, its population or its natural resources, commits the other members of the international community unavoidably to support for these principles.

23. On the occasion of the ceremonies held to celebrate the new State's independence, the Government of Uruguay sent messages to Mr. Sam Nujoma, the President of Namibia, to the country's Minister for Foreign Affairs and to the Secretary-General of the United Nations.

24. The last of these three messages was the most important, in view of the continuing support given by our country to the United Nations in its task of overseeing the peacemaking process, which culminated in the holding of elections in Namibia in November 1989 and the installation of the new auhorities in March 1990.

25. Attention should also be drawn to the repeated statements made by our country in support of General Assembly resolution 2145 (XXI), Security Council resolution 435, and the advisory opinion of the International Court of Justice of 1971.

Article 3

26. With regard to the obligation to guarantee to men and women equal enjoyment of all the civil and political rights set forth in the Covenant, it should be noted that on 2 June 1989 Uruguay promulgated Act No. 16,045 prohibiting any kind of discrimination which violates the principle of equality of treatment and opportunity for both sexes in any sector of employment.

27. This prohibition applies, inter alia, to: advertising of vacancies, criteria for performance assessment and promotion, job security (especially with regard to supervision and dismissal, with particular emphasis on cases involving changes in civil status, pregnant women and nursing mothers), welfare benefits, vocational or technical training and retraining, and remuneration criteria (art. 2).

28. Exceptions to this rule on discrimination are the recruitment of persons of a particular sex because persons of that sex are essential in order to perform the particular work involved, and so-called "reverse discrimination" designed to promote equality of opportunity in specific situations of inequality (art. 3).

29. A new procedure has recently been introduced in the Montevideo Industrial Tribunal and the Departmental Court of First Instance in the interior of the country. On the basis of this procedure, violations of the Act will lead to summary court proceedings under which offenders are allowed three days to take steps to put an end to the situation challenged. The sentence passed may take the form of a fine that will increase over time if the law is not complied with.

30. There will be a possibility of appeal against the sentence, but also within a limited period, namely, five days. The records of the case will be submitted to the Industrial Appeals Tribunal (art. 4).

31. Article 6 of the Act makes it obligatory for the State in general and for the education authorities in particular to carry out educational campaigns throughout the country, in order to encourage study of the situation of female workers and employers and to promote optimum use of their abilities.

Article 6

32. On 13 February 1990, the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, was opened for signature, having been approved by the United Nations General Assembly at its forty-fourth session in resolution 44/128.

33. Our country has resolutely sponsored all initiatives relating to abolition of the death penalty, both within the framework of the United Nations and within the Organization of American States. To this end, Uruguay stated, in its note to the United Nations dated 2 September 1989, that "in accordance with its historical and juridical tradition that it has invariably championed in international forums, it fully supports the draft submitted by the Special Rapporteur" (A/44/592). As a sponsor of the text finally adopted, Uruguay acceded to the Protocol on the day it was opened for signature.

34. The importance of the text is indicated by the categorical provisions of article 1, which prohibits the execution of persons within the jurisdiction of a State party, and the obligation to abolish the death penalty is universally established.

35. Our country has been complying with these requirements since 1907, the year in which the death penalty was abolished, not only in ordinary criminal matters but also in military criminal matters. This principe is recognized in the Constitution, article 26 of which stipulates: "The death penalty shall not be applied to anyone".

36. Uruguay is pleased to comply with the control mechanisms established under articles 3, 4 and 5 of the Protocol.

Article 8

37. Under this heading, it should be noted that our country has devoted particular attention to the problem of contemporary forms of slavery, and notably to the work of the Group of Five which, within the framework of the United Nations, has produced a number of important reports on the current world situation in this regard.

38. The new Government which took office on 1 March 1990 has given repeated assurances to Parliament that it will give top priority to the approval and ratification of the Slavery Convention, the Protocol amending the Slavery Convention of 1953, and the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery.

Article 9

39. In addition to the texts and provisions relating to the remedy of habeas corpus, outlined in Uruguay's second report to the Committee, attention must be drawn to the recently approved Act No. 16,011 providing for the so-called "writ of amparo". Under the Act, anyone whose constitutional rights have been violated in a manifestly unlawful manner may have recourse to this remedy.

40. The writ of amparo may be used against "any act or omission on the part of official or semi-official bodies or individuals which is considered by the complainant, either currently or in the immediate future to violate, restrict, impair or threaten, in a manifestly unlawful fashion, any of his rights and freedoms either expressly or implicitly recognized under the Constitution".

41. Those entitled to resort to this remedy are "any natural or legal person, whether public or private, entitled to the right or freedom violated or threatened".

42. The acts or omissions provided for under the Act range from specific acts, such as an administrative decision to acts of a general nature (regulations) or bilateral acts (contracts or conventions). Briefly, the remedy may be exercised either against official acts or against any failure to carry out an official act. It may also be resorted to in the case of acts or omissions on the part of semi-official bodies (bodies established by law, which perform functions similar to those of the Government, and which, having property and organization of a non-official character, discharge functions of public interest) and on the part of private natural or legal persons.

43. The wide extent to which constitutional rights are protected ensures that, in accordance with the most respected doctrine in the matter, the phrase "manifestly unlawful" is taken to mean any act that is not only illicit (contrary to the rule of law) or arbitrary (capricious), but also any act which proves essentially unjust or contrary to justice, owing to some clear, ostensible and obvious defect.

44. The procedure established under the Act requires that if the competent judge finds it appropriate, he shall order a hearing within three days of the application, at which the defendant may present his arguments and submit evidence. Sentence is passed the same day or the following day.

45. The sentence passed in cases of amparo must clearly specify the authority or individual against whom the complaint is directed, what the defendant must do or refrain from doing, and the period of time for which the sentence is applicable. Sentence may take the form of commutable fines.

46. In order to ensure that protection is complete, the Act also provides that "ignorance of the identity of the person responsible for the act or omission complained of shall not constitute an obstacle to presentation of the application, and in such a case the judge shall confine himself to the adoption of whatever temporary measures may be appropriate".

47. It should be noted that the text of the Act approved is fully in line with article 25 of the American Convention on Human Rights, which makes provision for the remedy of amparo, defined by the Inter-American Court of Human Rights as a short and simple procedure designed to safeguard fundamental rights (advisory opinion OC-9/87, requested by Uruguay).

48. Mention should be made under this heading of two other Acts relating to liberty and security of the person.

49. Under Act No. 16,058 of 15 August 1989, certain amendments have been made to article 1 of Act No. 15,859 concerning exemption from pre-trial detention, already referred to in the second report.

50. The article in question stipulates that, in addition to those cases provided for under article 71 of the Code of Penal Procedure, "the pre-trial detention of the defendant may be waived whenever the following exist:".

51. The article requires, therefore, the simultaneous existence of the following specific circumstances: if it is likely that the defendant will not be sentenced to a term of rigorous imprisonment; if the magistrate considers on the basis of the criteria defined in the Act, that the defendant will not try to elude the course of justice; and if the magistrate can reasonably assume that the defendant will not commit a further offence.

52. The text has been amended so as to make it clear that the option concerned is always at the discretion fo the magistrate, and that he may grant it whenever he considers that it is warranted by the circumstances of the case.

53. A further development in this connection is Ruling No. 7019 of the Supreme Court of Justice. Under this ruling, measures are taken to remedy delays in proceedings that come under the jurisdiction of the Criminal Court of First Instance in Montevideo and other criminal courts in the interior, especially with regard to the provisions of article 136 of the Code of Penal Procedure.

Article 10

54. In May 1989, the National Directorate of Prisons, Penitentiaries and Detention Centres (subordinate to the Ministry of the Interior) published a comprehensive report based on data received from all Uruguayan prison establishments regarding offenders serving terms of imprisonment.

55. Although the information supplied covered only one year (1988), it will be supplemented, for comparative purposes, by statistics for subsequent years. The report will provide judges, legislators and others working in this field with the material required to decide what changes and recommendations may be needed to ensure the more effective rehabilitation of offenders who may yet become useful members of society.

56. The report includes a study by the Institute of Criminology. The study was aimed to build up a detailed picture of the medical, psychological and social condition of offenders, so that their true nature and motivation could be better understood.

57. The case histories include a full investigation, a physical description of the offender and a full psychiatric report, with particular emphasis on any evidence of psychopathic disorder. Lastly, each offender underwent a medical examination.

58. When an offence is committed, the offender's police and criminal records can be looked at in conjunction with his own version of his motivation, in other words, the explanation of the offence. On the basis of all this information, it is possible to determine the degree of threat posed by the offender, so that he can be classified accordingly.

59. The same report contains an extensive study of the national prison system.

60. The study looks first at Libertad prison. This establishment was reopened in 1986, and although it was initially brought into service on a temporary basis, its prison population has increased since that date from 578 to approximately 816 today.

61. This has led to accommodation problems, which it is hoped will be overcome, when the recently-opened Santiago Vázquez prison complex (COMCAR) becomes fully operational.

62. The way this maximum-security prison is organized will enable offenders to be classified at earlier stages, so that prisoners expected to serve only a short term because of the less serious nature of their offence can be directed to COMCAR.

63. In COMCAR an experimental system of progressive treatment is currently being carried out, taking into account such fundamental principles as those contained in the Universal Declaration of Human Rights, the Pact of San José, Costa Rica, and the Standard Minimum Rules for the Treatment of Prisoners, principles to which our country subscribes.

64. The so-called Technical Sector of COMCAR consists of three units: the Classification and Diagnosis Unit, the Prison Treatment Unit, and the Prison Training School.

65. The first of these units carries out admission procedures and explains the various options offered by the prison complex. At the diagnosis stage, new arrivals are given a thorough examination by a team of sociologists, doctors, lawyers and instructors, who then prepare a detailed report on each individual in preparation for the classification stage. On the basis of all the data in the report, the new arrival is then classified according to a final diagnosis of the degree of risk he presents, with a view to his inclusion in one or other of the stages of the system of progressive treatment.

66. Under this system, inmates who are serving a sentence of less than six months are assigned to a special sector. In this sector, a team of instructors and social workers will provide the prisoner with the help and support he needs to maintain social and family ties, keep in touch with work opportunities, etc. Practical training of various kinds is also offered.

67. The Prison Treatment unit is made up of the Coordinators of the various stages of the progressive system, namely maximum security, semi-closed, semi-open, and minimum security. There are legal, social, educational and employment sectors associated with these stages.

68. The length of time that an inmate remains at any one stage of the process is subject to periodic assessment.

69. The third important unit is the Prison Training School. This school runs courses for prison officers which cover the legal, technical, administrative and security aspects of their work. Its ultimate objective is to produce prison officers who will command respect and who will be committed to their difficult task.

70. Lastly, there is an Employment and Health Sector, which organizes a system whereby work in small workshops or in the cells may be done at the maximum security stage, and farm or maintenance work at the minimum security stage. At the final stage of the process, inmates are allowed the option of outside work on a regular basis.

71. The Health Sector is responsible for keeping a check on the health of the inmate, in every sense. Conjugal visits are permitted for all prisoners in the complex.

72. The report is supplemented by a series of statistics, which include the following.

Annual prison visits by members of the Supreme Court of Justice

73. Out of a prison population which numbered 1,331 at the time of the visit, 213 have since been released representing about 16 per cent of the prison population, or about 21 per cent of that population over the period under review.

74. Lastly, the report gives statistics on the numbers of persons admitted to the Centre, their sex, type of offence, age, civil status and occupation.

75. The total number of persons admitted during the year under review was 2,088, of whom 1,949 were men and 139 women.

76. The reports ends with figures for the agricultural and industrial production of the National Directorate of Prisons, Penitentiaries and Detention Centres.

77. Among the productive activities, mention should be made of work in laundries, workshops, farming (milk, bricks, timber, etc.), poultry-farming, rabbit-breeding, pig-farming, pasta-making, ironworking, furniture-making and industrial management.

Article 14

78. As part of the section on criminal procedures, in particular regarding the "right to due process", mention should be made of some provisions adopted during 1989.

79. Act No. 16,058 amended article 1 of Act No. 15,859 of 31 March 1987. The purpose of the amendment was to make the text of the 1987 Act more precise.

80. The article in question was examined under article 9 of the Covenant.

81. Another provision to bear in mind in this section is Ruling No. 7019 of the Supreme Court of Justice, adopting measures aimed at overcoming delays in cases handled by the criminal courts of first instance in Montevideo and the rest of the country. It also reminds judges that they are under the obligation to expedite pre-trial proceedings, especially bearing in mind the responsibility of judges in this area.

82. By Decree No. 934/988, the Executive established an honorary commission in support of graduates of the National Institute for Minors (INAME). Among other tasks, the commission is responsible for preparing a register of INAME graduates who are in a position to perform paid jobs, for preparing plans for facilitating and supporting the graduates' entry into the labour market, and for conducting information and coordination activities together with other national authorities, especially those with similar tasks.

Article 19

83. When the Uruguayan representatives presented Uruguay's previous report to the Human Rights Committee, the members of the Committee expressed their concern at the continuation in force of certain provisions relating to freedom of expression which had been enacted many years before and might in some way limit freedom of expression in a manner incompatible with the provisions of the International Covenant on Civil and Political Rights.

84. At the same session, the members of the delegation of Uruguay indicated that the country's authorities were in the process of drafting a Press Bill.

85. On 24 October 1989, Act No. 16,099 was passed, setting forth rules relating to freedom of expression and freedom of information.

86. This Act contains five chapters setting forth general regulations relating to freedom of the press and printed matter, the right of reply, press offences and violations, and procedures to be followed in any relevant legal action.

87. Chapter I establishes regulations relating to the general principles of freedom of expression and freedom of information, and indicates that "the expression and communication of thoughts or opinions on all subjects and the dissemination of information through the spoken or written word or images, by any means of communication whatsoever, shall be entirely free", within the limits of the Constitution and the law.

88. Article 1 also establishes the freedom to found media, as well as journalists' right to professional secrecy. All the inhabitants of the Republic are entitled to these freedoms (art. 3).

89. Chapter II establishes regulations relating to the obligations incumbent on the heads of news agencies, printers and editors as regards the administrative requirements to be met vis-à-vis the Ministry of Education and Culture for the purposes of the proper fulfilment of their activities. By heads of news agencies, printers and editors, are meant to be those persons responsible for the publications in question.

90. Chapter III deals with the right of reply. According to the provisions of article 7, any physical or legal, public or private law entity may exercise, before the competent court, "the right to reply to a publication or any other public communication media which harmed him through inaccurate or injurious information, without prejudice to any penalties or civil liability to which the publication, notice or item of information bringing about the reply may give rise".

91. It may thus be seen that the right of reply is given a very broad interpretation. The protection of this right is established through a summary procedure governed by articles 8 to 17 of the chapter. The procedure includes a hearing presided over by the competent judge, on pain of nullity. Once the

parties have been heard, the judgement shall be rendered at the hearing itself, or, if grounds exist, within a three-day period which may not be extended. The judgement is open to appeal. When an appeal has been lodged, the court shall render a judgement within 10 days, also on pain of nullity.

92. In his judgement, the competent judge will grant or refuse the right of reply. The reply, "with no comments or remarks", must be inserted in the corresponding publication (or communications medium) within 48 hours following the judicial decision, or, in the case of a periodical not appearing daily, in the next issue after the date on which the judicial decision was made. If other media are involved, the reply must be broadcast at the same time and in the same programme with the same emphasis as in the original broadcast.

93. Chapter IV establishes serious and minor offences committed by the press or other media.

94. Article 19 states that the perpetration through the media in public broadcasts, printed matter or recordings, of an act categorized as an offence by the Penal Code or by special laws, shall constitute an offence, provided that the violation "has been committed in any one of them". The following are also categorized as offences: "(a) the deliberate dissemination of false information causing a serious breach of the peace or serious harm to the economic interests of the State or its reputation abroad; (b) integration of abuse of the Nation, the State or its authorities."

95. In addition, article 26 stipulates that the offences of slander and insult committed through the media shall carry a custodial sentence. The fact that the offence was committed through the media is considered as a factor aggravating criminal responsibility.

96. Another new article is article 31, which stipulates that the judge in the case shall, on application, order the judgement to be published free of charge and in a prominent place on the editorial page of the newspaper or publication, or be broadcast free of charge at approximately the same time in the case of a broadcast, within three days, with no comments, remarks, insertions or notes of any kind.

97. Finally, with reference to the chapter covering the respective criminal procedure, it should be pointed out that the Public Prosecutor's Office is exclusively entitled to bring action.

Article 20

98. Pursuant to the provisions of article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination, and in response to the recommendations made on previous occasions by the Human Rights Committee and the Committee on the Elimination of Racial Discrimination, the Executive and the Legislature have set about the task of drafting provisions establishing penalties for specific types of behaviour involving acts of discrimination.

99. The result of these efforts is Act No. 16,048 of 16 June 1989, article 1 of which replaces the Penal Code provision on instigation to disobey the law and to class hatred, which now reads as follows:

> "Article 149 (Instigation to disobey the law). Any person who publicly or by any other means likely to lead to its public dissemination instigates others to disobey the law shall be liable to a fine of 20 to 30 readjustable units."

100. Article 2 incorporates the following article in the Penal Code:

> "Article 149 bis (Incitement to hatred, contempt or violence towards specific persons). Any person who publicly or by any other means likely to lead to its public dissemination incites to hatred, contempt or any other form of moral or physical violence against one or more persons on grounds of the colour of their skin, or their race, religion or national or ethnic origin, shall be liable to 6 to 18 months' imprisonment."

101. Article 3 adds to the Code an article 149 ter, which reads:

> "(Commission of acts of hatred, contempt or violence towards specific persons). Any person who commits acts of moral or physical violence, hatred or contempt against one or more other persons on grounds of the colour of their skin, or their race, religion or national or ethnic origin shall be liable to 6 to 24 months' imprisonment."

102. Our country believes that with this Act, it fully complies with its obligations under the International Covenant on Civil and Political Rights and the International Convention on the Elimination of All Forms of Racial Discrimination. It should also be stressed that in the territory of Uruguay no act has ever been committed that could lead to charges relating to any of the offences mentioned above.

Article 22

103. Act No. 16,039 of 2 May 1989 approved the following International Labour Organisation Conventions: No. 141, concerning Organisations of Rural Workers and Their Role in Economic and Social Development; No. 151, concerning Protection of the Right to Organise and Procedures for Determining Conditions of Employment in the Public Service; No. 153, concerning Hours of Work and Rest Periods in Road Transport; and No. 154, concerning the Promotion of Collective Bargaining.

104. Of these conventions, special mention should be made of No. 151, which establishes regulations relating in particular to protection of the right to organize, public employees' organizations and the facilities they should be afforded, and the various forms of negotiation and settlement of disputes arising in connection with the determination of conditions of employment.

105. Of particular interest is article 9 of the Convention, which stipulates that "Public employees shall have, as other workers, the civil and political rights which are essential for the normal exercise of freedom of association, subject only to the obligations arising from their status and the nature of their functions".

Article 23

106. Mention should be made under this heading of two texts amending provisions contained in the Civil Code and the Legitimation through Adoption Act (No. 10,764 of 20 November 1945).

107. Act No. 16,094 of 24 October 1989 establishes amendments to article 187, paragraph 2, of the Civil Code relating to time-limits in divorce cases.

108. Thus the time-limits relating to divorce by mutual consent of the spouses have been changed. Proceedings must be held in three successive hearings within six months. The parties are exempted from the obligatory prior reconciliation session before the competent justice of the peace.

109. These appear to be sensible adjustments in divorce matters, in view of the marked reduction in time-limts introduced when the new Code of Civil Procedure, adopted in 1990, entered into force.

110. Act No. 16,108 of 27 March 1990 authorizes legitimation through adoption in respect of children abandoned by one of their legitimate parents if requested jointly by the father or mother who has retained parental authority and the new spouse.

111. A genuinely revolutionary provision is that embodied in Act No. 16,081 of 3 October 1989. It stipulates that, "once succession debts have been paid, if the succession comprises an urban or rural building intended for residential purposes which has been the marital home, the surviving spouse shall have the real right to live in it for life free of charge, regardless of whether it was the property of the deceased, property acquired during the marriage or the common property of the couple and whether or not there are other possible heirs or beneficiaries. In the absence of the building that was the marital home, the heirs shall provide another that is acceptable to the surviving spouse".

112. Thus a way has been found to protect the rights of the surviving spouse who, under the previous legislation, ran the risk of being left homeless, in that, with the assignment of the jointly-owned property, the real estate could be disposed of, the surviving spouse being left in a difficult situation.

113. In this way the surviving spouse is protected against losing his or her right to a home in the same place as the marital home.

Article 24

114. Act No. 16,021 of 13 April 1989 stipulates that men and women born in any part of the territory of Uruguay shall be nationals of the Eastern Republic of Uruguay (art. 1).

115. Article 2 stipulates that the children of persons covered by article 1 shall also possess that nationality, regardless of their place of birth.

116. Lastly, article 3 defines what is meant by the act of taking up residence, according to article 54 of the Constitution. Article 3 states that taking up residence means the performance of acts that demonstrate beyond doubt the person's intention in that respect and gives examples: sojourn in the country for a period of over one year; rental or purchase of property with the intention of living in it; employment in the public or private sector; establishment of a business or industry, etc.

Article 25

117. The year 1989 was characterized by particularly intensive electoral activity. This type of activity is ultimately the main expression of a democratic State under the rule of law. Participation by the people in decisions concerning the major national issues is an unmistakable indication of the level of development of political rights in a specific country.

118. On 16 April 1989, a referendum was held on the validity of Act No. 15,848 relating to the application of statutory limitations to the punitive power of the State.

119. Besides providing a solution to a specific problem, this referendum was very significant in that it sought the sovereign will of the people in a final decision on the solution of the serious human rights problems inherited from the de facto Government. It also represented a landmark in the history of the democratization processes in the area.

120. The final result of the referendum was the confirmation of articles 1 to 4 of Act No. 15,848 of 22 December 1986 by 1,082,454 votes in favour (equivalent to 56 per cent of the votes cast) and 799,109 votes against (41.3 per cent of votes cast), according to the proclamation of the Electoral Court on 22 June 1989.

121. On 26 November, national elections were held for the purpose of electing the new government authorities (President and Vice-President of the Republic, General Assembly, mayors, local legislatures), in accordance with the provisions of the relevant articles of the Constitution, for the period 1 March 1990 to 1 March 1995.

122. These elections, which took place in an exemplary fashion, according to all government and opposition sectors and international observers present, constituted a clear example of the permanent consolidation of the country's democratic institutions.

123. It should be mentioned that other elections were held during 1989, including the election of the senior officers of the University of the Republic, in accordance with the provisions of the University Organization Act and its amendments and additional provisions.

124. The Committee should also be informed that some important electoral instruments were also enacted in 1989, such as Act No. 16,017 of 20 January 1989, which embodies a number of provisions updating those of the Elections Act (No. 7812). This important new Act, containing over 50 articles, establishes precise regulations relating to the activity of the Ballot Committees during elections (arts. 1 to 3); the obligation to vote, exemptions from this obligation and electoral offences (arts. 4 to 20); the organization of a referencum in order to challenge legislation, including the identification of the acts challengable by this procedure, the convening and decisions of the electoral body, and the budgetary provisions relating to the holding of such referendums (arts. 21 to 51).

125. With regard to the budgetary provisions relating to the holding of elections or referendums, Act No. 16,103 of 10 November 1989 specified the State's contribution to the costs to be borne by the various political parties, groups and sectors as a result of their participation in the national elections of 26 November 1989.

126. By way of example, it should be pointed out that the State contributed the equivalent in new pesos of 50 per cent of one readjustable unit on the date of payment of the contribution, for every valid vote cast for the lists of candidates for the office of President of the Republic. The total corresponding to each candidature was to be distributed as follows: 30 per cent to the candidate for President; 30 per cent among all the lists of candidates for a seat in the Senate; 30 per cent among all the lists of candidates for a seat in the House of Representatives; and 10 per cent among all candidates for mayor, proportionally to the votes won on the respective lists.

127. Article 6 of the Act provides for the above-mentioned candidates to receive an advance of up to 50 per cent of the sums they are expected to be paid.

128. The fact that the Uruguayan State has underwritten much of the expenditure required by the electoral campaign makes it possible for campaign costs to be met under equal conditions by the different political groups, which ensures full compliance with the relevant provisions of the Covenant.

Article 26

129. In 1989, Uruguay enacted a series of anti-discrimination laws, two of which have already been commented on (those relating to discrimination against women and racial discrimination).

130. Act No. 16,095 of 26 October 1989 establishes a system for the full protection of disabled persons.

131. The purpose of this Act is mentioned in article 1, which states that the Act seeks to assure to disabled persons medical care, education, and physical, psychological, social, economic and vocational rehabilitation, and to provide services and incentives "that will make it possible to neutralize the disadvantages which they are caused by disability".

132. Among the main concepts established by this Act is that of disability: a disabled person is any person who suffers a permanent or prolonged physical or mental functional deterioration which, with respect to his age and social environment, entails considerable disadvantages for his social, educational, family or labour integration (art. 2).

133. Another important concept is that of full rehabilitation, as a comprehensive process characterized by the implementation of a series of medical, social, educational and labour measures aimed at the individual's adaptation or readaptation through training and social integration. Efforts will also aim at providing means by which disabled persons can obtain and keep a suitable job.

134. Article 5 of the Act stipulates that disabled persons shall enjoy all rights with no exceptions whatsoever, without distinction or discrimination on grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, wealth, birth or any other circumstance. Among the rights it establishes are the following: respect for human dignity, the right to live a decent life, to receive full medical and psychological care, to economic and social security, to live with one's family or in a substitute home, to be protected against any type of exploitation or discriminatory treatment, and to have the assistance of a lawyer if necessary. All these rights must be protected by the State, which shall establish an Honorary National Commission for Disabled Persons, whose tasks will be the formulation, study, evaluation and implementation of national policies for the promotion, development, rehabilitation and social integration of disabled persons (arts. 10 and 11).

135. Among the principles set forth in the text of this very important legislation, mention should be made of the following as being genuinely innovative:

(a) Establishment of family property and right of habitation (chap. IV, arts. 19 to 23): these provisions set forth the possibility of establishing family property for a disabled child, for as long as the disability continues;

(b) Health (chap. VI, arts. 29 to 32): establishes the obligation of the State to support and contribute to the prevention of deficiencies and disabilities through a coordinated set of health measures for that purpose;

(c) Education (chap. VII, arts. 33 to 40): these articles establish the means of achieving the full integration of disabled persons in the different levels of the educational system and of providing them with an appropriate basic education. Two provisions are particularly important in this respect: article 39, which raises the community's awareness and educates it concerning

the significance of the various disabilities and the proper way to behave towards persons suffering from them and the provision embodied in article 40, whereby sports and social centres may not discriminate in admitting persons covered by this Act;

(d) Work (chap. VIII, arts. 41 to 48): within the framework of this type of measure, the obligation is established for the State, the departmental governments, the autonomous bodies and decentralized services, and non-State public-law entities to employ disabled persons who are otherwise suitable for a certain job, to a reduced extent, in at least 4 per cent of their posts.

136. In addition, general rules are laid down for the establishment of occupational rehabilitation centres for the vocational training of disabled persons.

137. The Act also contains a series of provisions relating to architecture and town planning whereby data and arrangements in this area will be envisaged to help the disabled to work independently in public offices, roads, parks and gardens.